



April 20, 2020

To: All Underground Storage Tank System Stakeholders

Implementation of Underground Storage Tank System Requirements During the COVID-19 State of Emergency

The Maryland Department of the Environment's (MDE) Oil Control Program (OCP) remains committed to the protection of public health, public safety, and the environment during the COVID-19 emergency and continues to expect the regulated underground storage tank (UST) system community to comply with applicable state law and regulations. MDE also recognizes that impacts of the COVID-19 emergency may interfere with UST system operation and maintenance and other UST system activities.

In the event that an owner or operator of a UST system or other regulated entity will be delayed or unable to timely perform a required UST system operation or maintenance, or other UST system related activity due to the COVID-19 emergency, the UST owner or operator or other regulated entity must immediately notify OCP and provide detailed information regarding the delay or inability to timely perform the specific required UST system activity; and provide OCP with an assessment of the potential for risks to the public health, public safety, or the environment if the requirement is not timely performed or is delayed; and steps that can be taken to mitigate any such risk. OCP will consider any need for flexibility or request for OCP to exercise enforcement discretion on a limited, case-by-case basis.

As part of compliance assistance during this time, MDE recommends the following.

1. Health and Safety

Closely adhere to all federal, state, and local public health and safety guidelines.

2. Secure the UST System Facility

MDE's mission remains to protect public health, safety, and the waters of the state. A release from an operational facility or one that no longer has access to UST system contractors and testers could become both costly and dangerous. To minimize these risks, critical UST system leak detection, monitoring, and cathodic protection equipment must remain on and monitored. In addition, inconclusive or failed leak detection results, monitoring alarms, and inventory discrepancies must be investigated immediately.

3. Documentation

If OCP determines that a COVID-19 related delay or untimely performance of a required UST system operation or maintenance or other UST system activity, or exercise of

enforcement discretion will not put the public health, public safety, or the environment at risk, then UST system owners and operators must maintain documentation of the specific circumstances leading to any delay in conducting tests, maintenance, and inspections that prevented the facility from timely performing work or being in regulatory compliance; and must also include any appropriate action taken by UST system owners and operators under the circumstances.

UST system owner and operator documentation should include, but is not limited to:

- Communication with designated operators and service technicians;
- Cancellations of testing, etc., and the reason(s) for the cancellation; and
- Records of public closures or restrictions.

In addition, UST system owners and operators must document the operational status of all UST system leak detection, monitoring, and cathodic protection equipment and the investigations of all inconclusive or failed leak detection results, monitoring alarms, and inventory discrepancies.

The documentation is necessary to assist MDE in determining whether UST system owners and operators took appropriate actions given the circumstances and is critical in assisting UST system owners and operators in returning these facilities to compliance once the COVID-19 state of emergency is terminated and the catastrophic health emergency is rescinded.

4. Manned and Unmanned Facilities

UST system facilities open to the general public must have at least one Class A, Class B, or Class C operator on site to monitor the dispensing operation and to respond to alarms, emergencies, suspected or confirmed releases, unusual operating conditions, and equipment failures.

The requirements for a facility to operate as an unmanned or unattended UST fuel dispensing facility are:

- The facility must have written approval from MDE;
- The facility may not dispense fuel to the general public, rather it must maintain a controlled customer base (e.g. with use of a key card, membership card, or fleet card); and
- The facility must meet all of the requirements listed in the MDE fact sheet, *Facts About: Unmanned UST Fuel Dispensing Facility*:

https://mde.maryland.gov/programs/LAND/OilControl/Documents/Fact_Sheet_Unmanned_UST_Fuel_Dispensing_Facility_9.19.19_3pgs.pdf

5. UST System Compliance Inspections

UST system compliance inspections are an important part of maintaining compliance with Code of Maryland Regulations (COMAR). Therefore, UST system owners and operators should continue to have their facilities inspected by Maryland-certified UST system

inspectors in compliance with COMAR 26.10.03.10. Submit completed third party inspection reports to MDE using the address listed on the report. UST system owners and operators may also call OCP at 410-537-3442, for options to email a copy of the report.

6. UST System Technician, Remover, and Inspector Certifications

On March 12, 2020, Governor Hogan issued an Executive Order extending the expiration dates of certain licenses, permits, registrations, and other governmental authorizations that expire during the state of emergency and catastrophic health emergency and would be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations.

If you currently hold a UST system technician, remover, or inspector certification issued by the Maryland Department of the Environment's Oil Control Program (OCP) that expires on or after Thursday March 12, 2020, the expiration date will be extended to the thirtieth (30th) day after the state of emergency is terminated and the catastrophic health emergency is rescinded. A renewal application must be submitted to MDE within thirty (30) days after the termination of the state of emergency and rescission of the catastrophic health emergency.

UST system owners and operators must continue to use Maryland-certified UST system technician, remover, or inspector with current certifications or certifications that expired on or after March 12, 2020 (as discussed above). Should any activity requiring the presence of a Maryland-certified UST system technician, remover, or inspector be performed during this state of emergency by an individual(s) with a certification that expired prior to March 12, 2020, MDE may take enforcement action.

7. Test Failures, Suspected Releases, and Spills/Discharges

All UST system test failures, suspected releases, oil spills, and discharges must be reported to MDE immediately or within 2 hours of the test or discharge. The incident may be reported to OCP at 410-537-3442 or the MDE emergency 24-hour reporting number at 866-MDE-GOTO (866-633-4686). Please follow the prompts and leave a message as instructed.

OCP staff continue to evaluate reports to determine the level of response needed to address reported test failures and discharges. UST system owners and operators are not permitted to operate a leaking storage system and must immediately investigate, control, contain, and cleanup all discharges or threats of discharge. A UST system owner or operator with a failing spill catchment basin must maintain the spill catchment basin clean and dry before and after a product delivery until the spill catchment basin is repaired/replaced and retested with passing results.

8. UST System Installations

During the state of emergency and catastrophic health emergency, UST systems may continue to be installed provided that the companies involved meet the designations as essential businesses as noted in the Governor's Executive Orders. Additionally, the

Maryland-certified UST system technician must be onsite throughout the duration of the UST system installation. A UST system may not be put into service without first passing all regulatory required tests for tightness.

9. UST System Removals

During the state of emergency and catastrophic health emergency, UST systems removals, both regulated and non-regulated (e.g. residential), may continue provided that the companies involved are essential businesses under the Governor's Executive Orders, and the Maryland-certified UST system technician or remover remains onsite during the duration of the UST system removal.

Additional requirements for registered UST system removals are detailed in OCP's memorandum *Regulated Underground Storage Tank System Removal During the COVID-19 State of Emergency* located on OCP's homepage.

This memorandum does not create any exceptions to the Executive Orders issued by Governor Hogan or excuse the failure to comply with any UST system operational or other requirement, or generally relieve UST owners or operators from other regulatory requirements, including local and federal laws. It is the responsibility of a business, organization or facility to determine whether it is considered essential and can be conducting work during the state of emergency. For further information, please find the Governor's Executive Orders at this web page:

<https://governor.maryland.gov/category/executive-orders/>.

This guidance is intended to only apply until the COVID-19 state of emergency is terminated and the catastrophic health emergency is rescinded. You should continue to monitor the MDE website for updated information regarding UST systems during this unprecedented time.

<https://mde.maryland.gov/programs/LAND/OilControl/Pages/index.aspx>.